IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

NOTICE OF MOTION NO.3946 OF 2007
IN
SUIT NO.2880 OF 2007

Vishwanath Yeshwant Sarmalkar ..Plaintiff.
Vs.
M/s. Sheth Developers Pvt. Ltd.
Ashwin Sheth (Director) ..Defendant.

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Mr. Sanjay Upadhyay i/b Mrs. S.A. Dhamale for the Plaintiff.
Mr. Shekhar Shetye with Mr. Ramesh Gajaria i/b Gajaria & Co. for the Defendant.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

5th December, 2007.

P.C. :

On 31st October, 2007 a statement was made before the Learned Single Judge, Mr. Justice A.M. Khanwilkar on behalf of the Defendant that the apprehension of the Plaintiff to the effect that construction would be commenced was misplaced, inasmuch as, the Defendant did not possess a commencement certificate issued by the Municipal Corporation. Counsel appearing for the Defendant states that the same position continues as of date, but, in order to adequately protect the interest of the Plaintiff, the

Defendants without prejudice to their rights and contentions would furnish prior notice of two weeks to the Plaintiff before commencing construction. Counsel appearing for the Plaintiff has also stated that the Plaintiff is taking steps for amending the Plaint by instituting a Chamber Summons. In view of the statement made on behalf of the Defendant, the reliefs sought in the Notice of Motion are not pressed at this stage. The Notice of Motion is disposed of at this stage leaving it open to the Plaintiff to adopt appropriate proceedings should the need arise.